

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
BOSTON DIVISION**

SONATE CORPORATION D/B/A
Vegadelphia FOODS,
Plaintiff,

vs.

BEYOND MEAT, INC., a Delaware
corporation,
Defendant.

Civil Action No. 1:23-cv-10690

**DEFENDANT BEYOND MEAT, INC.'S STATEMENT OF MATERIAL FACTS IN
SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT**

[REDACTED VERSION]

Pursuant to Federal Rule of Civil Procedure 56 and the District of Massachusetts Local Rule 56.1, Defendant Beyond Meat, Inc. ("Beyond"), hereby submits its Statement of Undisputed Facts in Support of its Motion for Summary Judgment (Doc. No. 202).

STATEMENT OF UNDISPUTED FACTS

- 1) Beyond Meat is a market leader in the plant-based meat industry. (Doc. 203-1; Ex. 1 at 606).
- 2) Beyond Meat employed 700 full-time employees in 2020. (Doc. 203-1 at 555).
- 3) Beyond Meat's innovation team alone consisted of more than 170 scientists, engineers, researchers, technicians, and chefs in 2020. (Doc. 203-1 at 546).
- 4) By 2020, Beyond Meat's products were available at 122,000 retail and foodservice outlets in more than 80 countries worldwide, across mainstream grocery, mass merchandiser, club, convenience store, and other natural retailer channels, and various food-away-from-home channels, including restaurants, foodservice outlets and schools. (Doc. 203-1 at 543).
- 5) Beyond Meat primarily drives consumer awareness and interest via (1) social and digital media, (2) public relations, (3) ambassadors and influencers, (4) customer media, and (5)

strategic partnerships. (Dkt 203-1 at 552). Beyond Meat also advertises via television and radio. (Doc. 203-1 at 547).

6) Beyond Meat is backed by major athletes, celebrities, and other cultural trendsetters, including Kevin Hart, Snoop Dogg, Leonardo DiCaprio, Chris Paul, Kyrie Irving, and Shaquille O’Neal. (Doc. 203-2 at 292).

7) Over a 12-week period in 2018, the Beyond Burger was the No. 1 selling packaged burger in a major U.S. retailer, beating out even traditional meat-based burgers. (Dkt 203-3 at 187).

8) In 2018 alone, Beyond Meat received more than 10 billion media impressions, including those from well-known outlets such as the New York Times, the Wall Street Journal, the Los Angeles Times, BuzzFeed, and the Today show. (Doc. 203-2 at 291).

9) Beyond Meat began using “plant-based great taste” in 2019 as descriptive product messaging (“Product Messaging”) to identify what it perceived as the two most important qualities of its plant-based meat substitute. (Doc. 203-4 at 7044; Doc. 203-5 at 27:19-24, 121:9-13; 144:5-17; 170:17-19; 171:20-172:8; 222:8-25; Doc. 203-6 at ¶¶ 27, 38-41).

10) At the time Beyond Meat began using “plant-based great taste” in 2019, it had no actual notice of Sonate’s mark. (Doc. 203-5 at 145:23-146:2).

11) Also when Beyond Meat began using “plant-based great taste” in 2019, Beyond Meat was not aware of Sonate. (Doc. 203-5 at 145:23-146:2).

12) In 2022, Beyond Meat sold the following plant-based meat substitutes: burgers, dinner sausages, chicken, ground beef, breakfast sausages, steak, meatballs, jerky, meat crumbles, pepperoni, ground pork, dry blend, sauce, dumplings, and shredded beef. (Doc. 203-7, column G, rows 919–44 (annotated excerpt shown below)).

Volume Sold by Product Type	2019	2020	2021	2022
[REDACTED]				

13) Beyond Meat utilized the “plant-based great taste” product messaging in association with its plant-based products at point-of-purchase locations, including, *inter alia*, shelf wobblers and static window clings positioned in grocery retailers, product sell sheets and posters in restaurants, and shipper boxes for shelf display in wholesale stores. (Doc. 203-8; Doc. 203-9).

14) Beyond Meat and Dunkin’ agreed to offer a new, collaborative product: the Beyond Sausage Breakfast Sandwich (“the Sandwich”). (Doc. 203-2 at 262; Doc. 203-10 at 31)

15) This menu item was a combination of Dunkin’s existing breakfast sandwich with the meat replaced by Beyond Meat’s Beyond Sausage product. (Doc. 203-10 at 31; Doc. 203-11 at 47-48).

16) In the lead up to the launch, the Defendants shared ideas on product messaging to determine how best to introduce and describe the new Sandwich to Dunkin’s consumers. (Doc. 203-12; Dkt 203-5 at 255:6-9, 255:17-256:11, 257:22-258:10).

17) Jamie Grass, Beyond Meat’s Brand Activation Manager, provided several messaging ideas to convey the key qualities of the Sandwich, including, *inter alia*, “Same Great Taste. Plant-Based,” “Great Taste. Plant-Based,” “Breakfast with Benefits,” “Same Same. But

Plant-Based,” “Good Eats. New Meats,” More pros in your protein,” and “On-the-go Is now better-for-you.” (Doc. 203-12).

18) The Defendants selected “Great Taste. Plant-Based.” as the approved product messaging for the collaboration. (Doc. 204-1 at 408).

19) Neither of the Defendants viewed the “great taste plant-based” product messaging as a source identifying trademark – it merely described key attributes about the Sandwich that the Defendants sought to convey to customers. (Doc. 203-4 at 7044; Doc. 203-5 at 27:19-24, 121:9-13; 144:5-17; 170:17-19; 171:20-172:8; 222:8-25; Doc. 203-6 at ¶¶ 27, 38-41; Doc. 203-2 at 10:11-18, 11:4-9, 15:6-15, 16:6-15, 21:9-11).

20) In the following days, Dunkin’s marketing agency prepared advertising materials to be used with the launch and circulated the proposed art to the Defendants for approval. (Doc. 204-1).

21) During this process, the Defendants’ respective brand managers and legal departments reviewed the proposals and noted various changes necessary to maintain brand hygiene and properly identify the Defendants’ respective intellectual property, including the proper use of capitalization to denote which marketing elements were utilized as source identifiers, the addition of the TM trademark and ® registered trademark symbols, and even minutiae pertaining to the precise placement of these symbols. (Doc. 204-1 at 437-38 (discussing whether to capitalize “Egg & Cheese”); Doc. 204-3 (requesting the addition of ® symbol after Beyond Sausage to denote a registered trademark); Doc. 204-4 (questioning whether TM or ® was appropriate with certain Dunkin’ logos); Doc. 204-5 (expressing concern that the ® symbol was positioned low with respect to the mark)).

22) Throughout the campaign, the product messaging varied with usage under the watchful eye of dedicated brand managers. (*See generally* Doc. 204-1 (reviewing proposed uses of non-mark product messaging and protected brand elements in email chain including, *inter alia*, Dunkin’ VP of Brand Stewardship, Drayton Martin (title on Doc. 204-1), Beyond Meat Brand Activation Manager, Jamie Grass (title on Doc. 204-7)).

23) Throughout Defendants' collaboration, grammatical phrasing of the Product Messaging varied. Doc. 17 (First Amended Complaint "FAC") pp. 3, 17, 19–22, 24–25 (each showing "Great Taste Plant-Based" (ignoring variations in punctuation and capitalization)); pp. 16, 18, 20 (bottom), (each showing "Plant-Based Great Taste" (ignoring variations in punctuation and capitalization)); pp. 17 (bottom left), 19 (center), 21 (top right), 28 (both images) (using "plant-based" alone to describe patty)).

24) Throughout Defendants' collaboration, punctuation was inconsistently utilized in association with the Product Messaging. Doc. 17 (FAC) pp. 3, 19 (bottom), 21 (all but top right), 22 (each showing use of "Great Taste Plant-Based" with hyphen but no comma); p. 17 (showing use of "Great Taste Plant Based" with no comma or hyphen); pp. 19 (top), 20 (top), 21 (top right) (each showing use of "Great Taste, Plant-Based" with comma and hyphen). The font varied from plain text (Doc. 17 (FAC) pp. 18, 19 (top and center), 20, 28) to stylized usages Doc. 17 (FAC) pp. 17, 19 (bottom), 21–22, 24–25). (*See attached Appendix A*).

25) In all uses of Beyond Meat's product messaging and Plaintiff's mark, each appears in a store, immediately next to or in close visual proximity to the respective user's house mark or logo. (*See Appendix A; see, e.g., Doc. 17 (FAC) pp. 3, 17, 19–22, 24–25*).

26)



27) Since at least 2019, Sonate has been operated: Mr. Seth Shipon as president, and his brother, Mr. Matt Shipon, as vice-president. (Doc. 204-9 at 21:6, 54:4-11, 54:15-55:4).

28) Sonate only received [REDACTED] in combined revenue for sales of its veggie lean products from January 1, 2018 through October 31, 2022. (Doc. 204-9 at 209:20-24; Doc. 204-8).

29) From January 1, 2018 through October 31, 2022, Sonate's gross profits from its sale of plant-based products [REDACTED] per year. (Doc. 205-1 at 105:4-7).

30) Sonate's total net operating income from January 1, 2018, through October 31, 2022, was [REDACTED]. (Doc. 205-2 at 184).

31)

(Doc. 204-8 at pp. 1-4.)

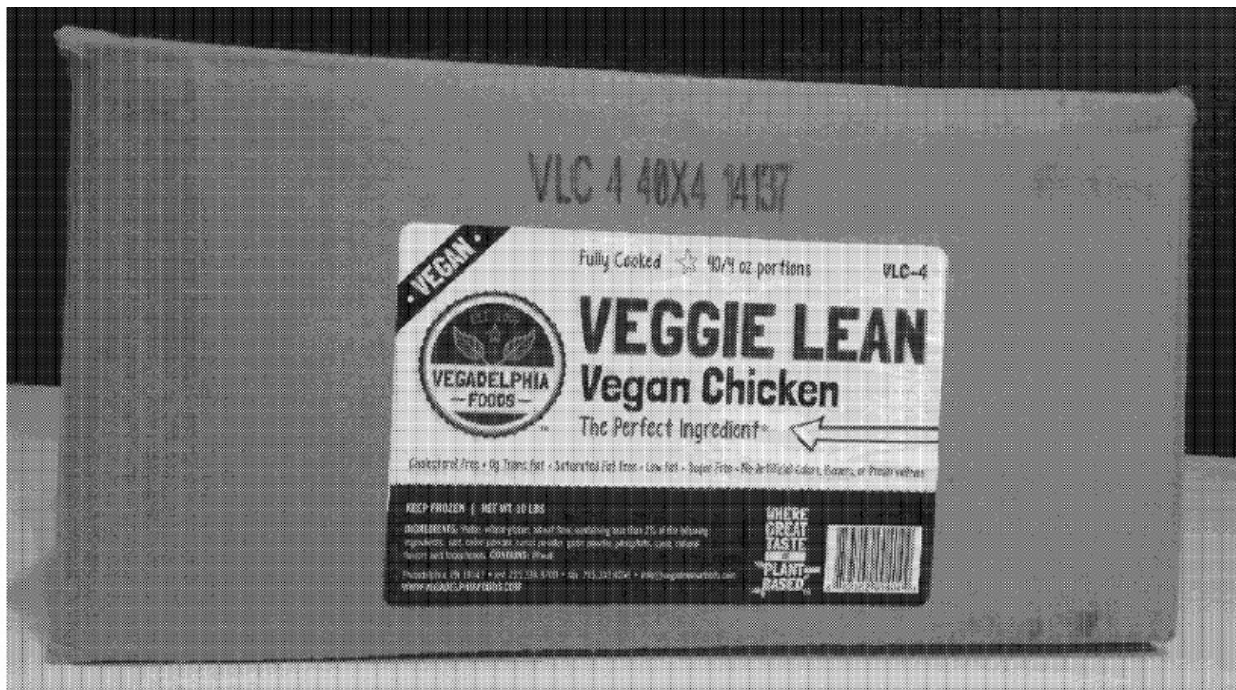
32)

respectively from January 1, 2018 to October 31, 2022. (Doc. 204-8 at pp. 1-4.)

33) From January 1, 2018 through October 31, 2022, Sonate's combined marketing expenditure was [REDACTED], total. (Doc. 205-2 at 184; Doc. 205-1 at 65:23-66:3.)

34) Sonate uses the slogan WHERE GREAT TASTE IS PLANT BASED on its Veggie Lean plant-based meat products, which include shredded beef, shredded chicken, and crab cake substitutes. (Doc. 205-3; Doc. 205-4; Doc. 205-5).

35) Sonate's Veggie Lean products are sold to restaurants and restaurant distributors in brown or white wholesale cardboard boxes with a sticker including the Vegadelphia house mark and the WHERE GREAT TASTE IS PLANT BASED mark. (Doc. 205-6 at 483-86).(Sonate0000485).



36) Sonate's slogan has always been used in next to or in close visual proximity with Plaintiff's primary house mark, VEGADELPHIA. (*See, e.g.*, Doc. 17 (FAC), pp. 3, 12–13, 15, 24).

37) There is no evidence that any customers actually saw Sonate's slogan, which was used on packaging that was typically discarded by the restaurant in connection with preparing the plant-based food. (Doc. 59 (Ballard Dec.) ¶¶ 4, 6–7, 9, 11–12, 14–15; Doc. 59-1 (Ex. A to Ballard Dec.); Doc. 59-2 (Ex. B to Ballard Dec.); Doc. 59-3 (Ex. C to Ballard Dec.); (Doc. 205-1 at 143:20-144:5, 144:25-145:5, 145:14-20; Doc. 204-9 at 73:5-9, 74:17-23, 139:6-12, 222:23-223:10)).

38) To the contrary, visits to one of Sonate's primary customers confirmed that consumers did not see the slogan. (Doc. 59 (Ballard Dec.) ¶¶ 4, 6, 7, 9, 11, 12, 14, 15; Doc. 59-1 (Ex. A to Ballard Dec.); Doc. 59-2 (Ex. B to Ballard Dec.); Doc. 59-3 (Ex. C to Ballard Dec.)).

39) Sonate filed a trademark application for the WHERE GREAT TASTE IS PLANT BASED mark on March 28, 2014, which was registered on March 10, 2015. (Doc. 205-7 at 389).

40) In May 2020, an attorney from the Cozen law firm, representing Sonate, sent Beyond Meat and Dunkin' a demand letter alleging trademark infringement in connection with the collaboration. (Doc. 204-9 at 179:12-20; Doc. 205-8).

41) Defendants' attorney responded confirming that they had already transitioned away from the tagline. (Doc. 205-9 Ex. 24 at 165).

42) Defendants have ceased from using the "Great Taste. Plant-Based." tagline (Doc. 205-1 at 90:5-20; Doc. 204-9 at 281:4-18, 283:6-14).

43) In April of 2022, two years after sending the original letter and well after Defendants had ceased from using the Product Messaging, Sonate filed the present lawsuit alleging that Defendants' collaborative use of the Product Messaging infringed upon its trademark rights in the Sonate's slogan. (Doc. 1 (Complaint)).

44) Plaintiff through its expert, asserts the following damage theories and corresponding monetary demands inclusive of interest: Unjust Enrichment ([REDACTED]); Hypothetical License ([REDACTED]); Corrective Advertising ([REDACTED]); Defendant's Loss Value ([REDACTED]). (Doc. 205-10 ¶ 79).

45) Dr. Richard George, a marketing expert, identified numerous uses of "great taste" in product messaging and consumer commentary associated with McDonald's, Pepsi, Kellogs,

Hershey's, Lipton, Reese's, Gatorade, Heinz, and Sprite. (Doc. 203-6 ¶¶ 42-43, 46, Figures 1-10; *see attached Appendix B (examples)*)).

46) Similarly, Dr. George identified similar uses of “plant based,” associated with Walmart, Kroger, Trader Joe's, BJ's Wholesale Club, Costco, Food Lion, and Whole Foods, including use of “plant based” as a product category. (Doc. 203-6 ¶¶ 59-64, Figures 17-30; *see attached Appendix B (examples)*)).

47) Dr. George also identified third-party use of “plant based” and “great taste” used together, including Hellman's, Harris Teeter, V Burger, Impossible Foods, Arley's, the Mighty Kitchen, the Philly Vegan, Ambronite, and Sunwarrior, who each used *both* terms, *together*, in connection with vegan foods. (Doc. 203-6 ¶¶ 77-86, Figures 40-63; *see attached Appendix B (examples)*)).

48) Dr. George also located 18 social media messages, totally unrelated to the foregoing uses that made reference to both terms together, often as hashtags. (Doc. 203-6 ¶¶ 87-91, Figures 65-73).

49) Similar evidence of third-party use can be identified from a search of USPTO trademark registrations records, which confirm at least 60 uses of “plant based” in Class 29, all with the generic portion disclaimed. (See, attached Appendix C).¹

50) Merriam Webster defines “plant-based” as “made or derived from plants” and “consisting primarily or entirely of food (such as vegetables, fruits, nuts, oils, and beans) derived from plants.” <https://www.merriam-webster.com/dictionary/plant-based#:~:text=%3A%20consisting%20primarily%20or%20entirely%20of,reduction%20practice%20and%20social%20support>.²

¹ (The cited evidence contains compilations of the trademark registration information obtained from the United States Patent and Trademark Office's website. Beyond requests that the Court take judicial notice of this easily accessible, verifiable information. *See, e.g., SonicSolutions Algae Control, LLC v. Diversified Power Int'l, LLC*, 722 F. Supp. 3d 16, 35, n.6 (D. Mass. 2024) (taking judicial notice of relevant trademark registration numbers).

² Beyond requests that the Court take judicial notice of the dictionary definition of “plant-based.”

51) Merriam Webster defines “great” as “markedly superior in character or quality, and notes that it is “used as a generalized term of approval.” <https://www.merriam-webster.com/dictionary/great#:~:text=%3A%20an%20outstandingly%20superior%20or%20skillful%20person.>³

52) Merriam Webster defines “taste” as “a sensation obtained from a substance in the mouth that is typically produced by the stimulation of the sense of taste combined with those of touch and smell : FLAVOR.” *taste*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/taste#:~:text=%3A%20to%20ascertain%20the%20flavor%20of,by%20the%20sense%20of%20taste.>⁴

53) Defendants are not aware of any instances where someone was actually confused whether a connection existed between Sonate and Defendants based on Defendants use of the tagline. (Doc. 205-1 at 76:22-78:16; Doc. 204-9 at 246:17-247:22.)

54) In January of 2020, Beyond Meat had outside counsel perform a trademark search because a competitor, Impossible Foods, was using “great taste” and “plant-based” in relation to its plant-based foods, and Beyond Meat was worried Impossible Foods would try to claim the messaging as their own. (Doc. 203-5 at 152:12-153:9; Doc. 205-11 at pp. 6–7).

55) As a result of the trademark search, Beyond Meat’s outside counsel learned of Plaintiff’s trademark registration, however, she was unable to find any evidence that Plaintiff was actually using the mark. (Doc. 203-5 at 153:10-18).

56) Out of fear that Impossible Foods may try to preclude Beyond Meat from utilizing the product messaging that it believed best described their product, Beyond Meat filed a trademark application for PLANT-BASED GREAT TASTE on March 16, 2020. (Doc. 205-8 at BM00007046); (Doc. 205-12 at pp. 6–7).

57) Beyond Meat filed the application even though it believed the phrase to be generic or highly descriptive of its plant-based products. (Doc. 203-5 at 143:24–144:17).

³ Beyond requests that the Court take judicial notice of the dictionary definition of “great.”

⁴ Beyond requests that the Court take judicial notice of the dictionary definition of “taste.”

58) The USPTO confirmed the proposed mark was descriptive and unregistrable in an Office Action mailed June 12, 2020. (Doc. 205-12 at 121-22 (descriptive refusal)).

59) Supporting the refusal, the examining attorney noted “In other words the goods are PLANT-BASED GREAT TASTE substitutes for meat” and relied upon dictionary definitions of the component terms. (Doc. 205-12 at 121-22 (descriptive refusal)).

60) The “great taste plant-based” product marketing was always used in connection with Beyond Meat’s and/or Dunkin’s primary house mark. (*See, e.g.*, Doc. 17 (FAC), pp. 3, 16–22, 24–25, 29).

61) [REDACTED] (Doc. 204-9 at 214:21-23, 215:1-5; Doc. 205-1 at 11:21-12:14).

62) Vegadelphia’s average annual gross profit from 2018 to 2022 was approximately [REDACTED] per year. (Doc. 205-1 at 105:4-7).

63) During this litigation, Sonate has repeatedly used “plant-based” generically to describe a category of foods. (Doc. 205-1 at 103:4-5 (“I mean, plant-based products are everywhere now, so . . .”)); Doc. 17 (FAC) at pp. 9-10 ¶28 (identifying Sonate’s customers as including “anyone looking for plant-based food options without sacrificing look or taste”), p. 25 ¶62 (same).

64) Sonate’s information sheets for its Veggie Lean products describes them as “A Great Tasting Plant-Based . . . Alternative” and use “plant-based” to generically describe a category of protein across multiple revisions of the documents. (Doc. 205-3 at 195 (“A Great Tasting Plant-Based Beef Alternative”), 196 (“VEGGIE LEAN BEEF is a plant-based protein”); Doc. 205-4 at 197 (“A Great Tasting Plant-Based Chicken Alternative”), 198 (“VEGGIE LEAN CHICKEN is a plant-based protein”); Doc. 206-1 at 248 (“A Healthy Plant-Based Beef Alternative”), 249 (“VEGGIE LEAN BEEF is a plant-based protein”); Doc. 206-2 at 250 (“A Healthy Plant-Based Chicken Alternative”), 251 (“VEGGIE LEAN CHICKEN is a plant-based protein”); Doc. 206-3 at 254 (“A Healthy Plant-Based Beef Alternative”), 255 (“This fully

cooked plant-based protein”); Doc. 206-4 at 256 (“A Healthy Plant-Based Chicken Alternative”), 257 (“This fully cooked plant-based protein”); Doc. 206-5 at 1318-20, Doc. 2 at 1322.

65)

(Doc. 205-2 at 45:10-13, 96:20-25.)

66) Beyond Meat began using “plant-based great taste” as descriptive product messaging to identify what it perceived as the two most important qualities of its plant-based meat substitute. (Doc. 203-4 at 7044); (Doc. 203-5 at 27:19-24, 121:9-13; 144:5-17; 170:17-19; 171:20-172:8; 222:8-25); (Doc. 203-6 ¶¶ 27, 38-41).

67) Taste is a significant barrier to adoption of plant-based meat substitutes, with many consumers believing that plant-based substitutes do not taste as good as animal proteins. (Doc. 203-2 at 288); (Doc. 203-5 at 64:23-65:6, 67:19-68:5); (Doc. 205-1 at 102:14-23).

68) The parties never considered adding a TM symbol to the tagline. (Doc. 205-6 (requesting the addition of ® symbol after Beyond Sausage to denote a registered trademark)), (Doc. 204-4 (questioning whether TM or ® was appropriate with certain Dunkin’ logos)), (Doc. 204-5 (expressing concern that the ® symbol was positioned low with respect to the mark)).

69) Sonate considered using the “plant-based great taste” messaging but decided it was too simple. (Doc. 204-9 at 318:2–319:24; Doc. 206-6 at p. 17).

70) The only consideration discussed relative to the “great taste plant-based” product messaging was legibility. (Doc. 206-7 at 458).

71) Defendants’ collaborative food products are accurately described as “plant-based.” (See, e.g., Doc. 206-8 (indicating that the ingredients for the Beyond Meat Sausage Patty that Beyond provided to Dunkin’ are primarily derived from plants); Doc. 206-9 (product specifications for BM Sausage Patty)).

72) The phrase “great taste” is a laudatory phrase that accurately describes the Defendants’ products. (See, e.g., Doc. 206-10 at 87 (indicating that over 65% of consumers rated

the Dunkin' Beyond Sausage Breakfast Sandwich as a 4 or 5 on a 5-point scale for flavor where 5 is the highest score, and only 11% of consumers rated the sandwich a 1 or 2 on the same scale)).

73) Mr. Matthew Shipon admitted that others in the industry likely use this [great taste] because of the positive association it conveys. (Doc. 205-1 at 102:2-7).

74) Plaintiff's expert (Sidney Blum) offers five damage theories in his expert report: (1) unjust enrichment; (2) reasonable royalty damages; (3) corrective advertising damages; (4) lost profits; and (5) lost value. (See Doc. 205-10, ¶ 79).

75) The genesis of Plaintiff's [REDACTED] valuation is the unsubstantiated opinion of non-expert witness, Erik Oberholzer, offered in connection with discussions he had with Plaintiff in connection with a possible joint venture that never materialized. (Doc. 206-11 at p. 127; Doc. 206-12, pp. 245-46).

76) In connection with those discussions, which took place in 2021, well after Plaintiff was aware of the alleged infringement (Doc 204-9, pp. 250-57), [REDACTED]
[REDACTED] (Doc. 206-11, p. 127).

78)

Doc. 206-12 at pp. 245-46).

79)

(Doc. 206-13).

80) Other than these discussions relating to a possible agreement, Plaintiff confirms that it never discussed the possibility of licensing the slogan at issue with any other company. (Doc. 204-9 at pp. 264-65; Doc. 205-1 at p. 144).

81)

(Doc. 206-11 at 128-29; Doc. 206-13 at p. 9).

82)

(Doc. 206-

11 at pp. 128-29).

83) Sonate's expert opines that it is entitled to an award of [REDACTED] for corrective advertising. (Doc. 205-10, ¶ 79).

84)

(Doc. 204-9 at p. 258).

Dated: March 11, 2025

Respectfully Submitted,

BUCHALTER
A Professional Corporation

By: /s/Willmore F. Holbrow
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Attorneys for Defendant Beyond Meat, Inc.

CERTIFICATION PURSUANT TO LOCAL RULE 7.1

Pursuant to Local Rule 7.1, I, Willmore F. Holbrow III, hereby certify that counsel for Plaintiffs conferred with the undersigned counsel for Defendant via email and telephonically on or about March 6, 2025, in a good-faith effort to narrow dispute as to the above-styled motion and that Plaintiff has indicated it will oppose the Motion.

/s/ Willmore F. Holbrow III
Willmore F. Holbrow III

APPENDIX A



Dkt. 17, ¶6.



Dkt. 17, ¶50.



Dkt. 17, ¶50.



Snoop Dogg  @SnoopDogg · 11/8/19 

You know Bigg Snoop is lookin out for you ! head to [@DunkinDonuts](#) Nov 8 & 9 to try out the Beyond Sausage Sandwich featuring a [@BeyondMeat](#) plant-based patty!



146K views

 257

 635

 3,952



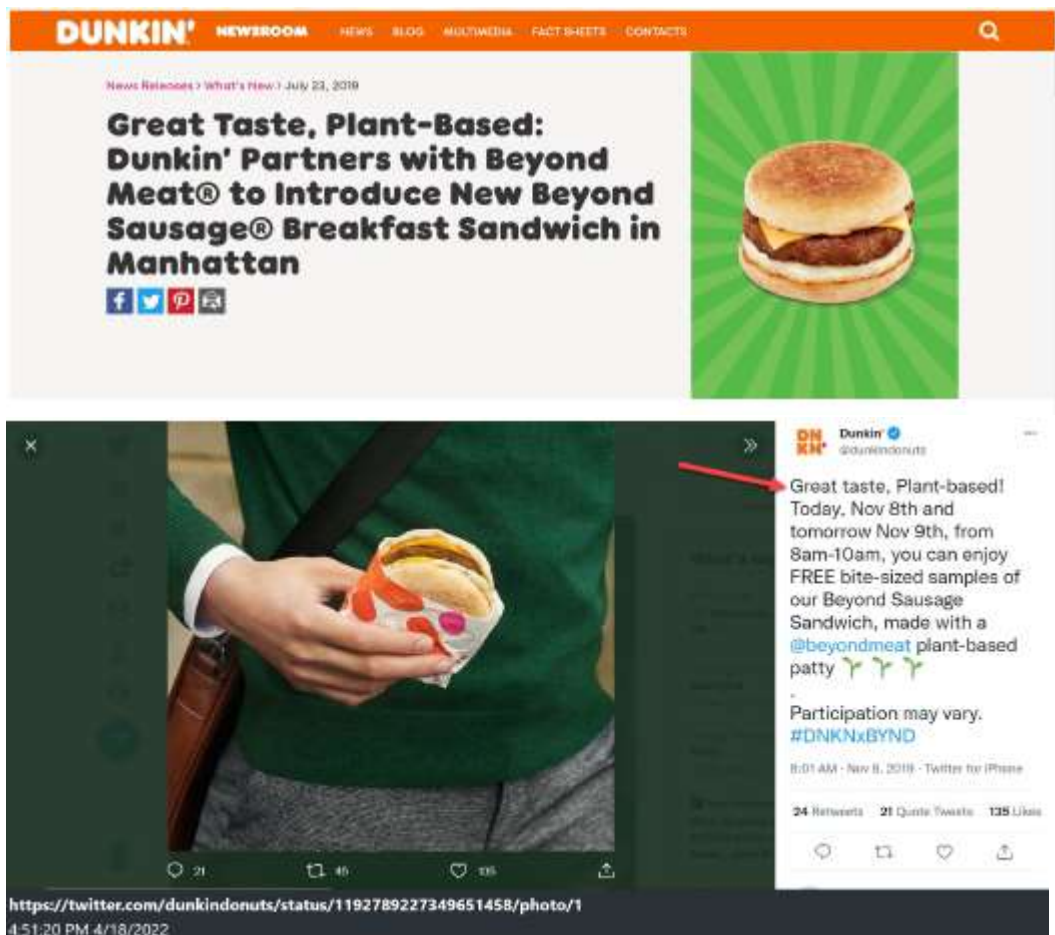
Dkt. 17, ¶51.



Dkt. 17, ¶51.



Dkt. 17, ¶52.



Dkt. 17, ¶53.



← Tweet



Dunkin' 
@dunkindonuts

I'm eating the Beyond Sausage Breakfast Sandwich for...



Q Search Twitter

Relevant people



Dunkin' 
@dunkindonuts

Follow

America runs on Dunkin' tweets 🍩🍩

What's happening

Music · LIVE

🎵 All the action from the first weekend of Coachella 2022 🎵



Trending in United States

#SFvsNYM

...

Sports · Trending

Premier League · 1 hour ago
Liverpool FC vs Manchester United

Trending with #LIVMUN, Anfield



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Sports · Trending

#SFvsNYM

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COVID-19 · LIVE

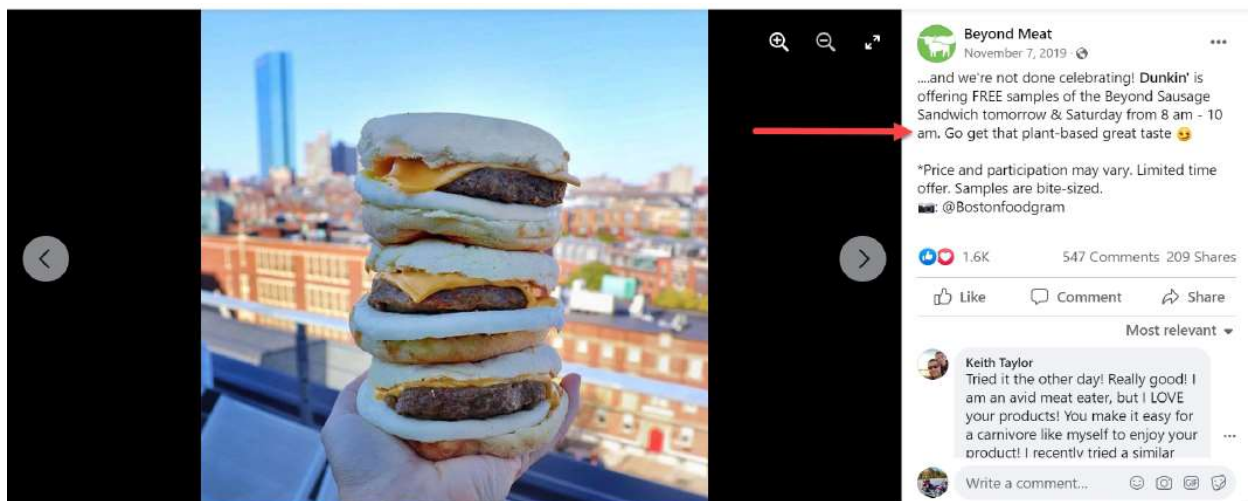
COVID-19: News and updates for Virginia



Dkt. 17, ¶53.



Dkt. 17, ¶53.



Dkt. 17, ¶53.





GREAT TASTE, PLANT-BASED!

The Beyond Sausage® Sandwich is made with egg, cheese & a plant-based patty.

CUSTOMIZATION & NUTRITION

Dkt. 17, ¶53.



Dkt. 17, ¶53.



Dkt. 17, ¶53.



Dkt. 17, ¶53.



Dkt. 17, ¶53.



Dkt. 17, ¶54.



Dkt. 17, ¶54.



Dkt. 17, ¶54.



Dkt. 17, ¶54.



Dkt. 17, ¶60.



Dkt. 17, ¶60.



Dkt. 17, ¶60.



Dkt. 17, ¶51.



Dkt. 17, ¶60.




Dkt. 17, ¶60.

1:41

Search

×



Beyond Sausage Breakfast Sandwich

GREAT TASTE, PLANT-BASED! Try the Beyond Sausage Sandwich made with egg, cheese & a plant-based patty. Max 12 per order.

Choose Your Egg

REQUIRED

Select 1

☐ Fried Egg

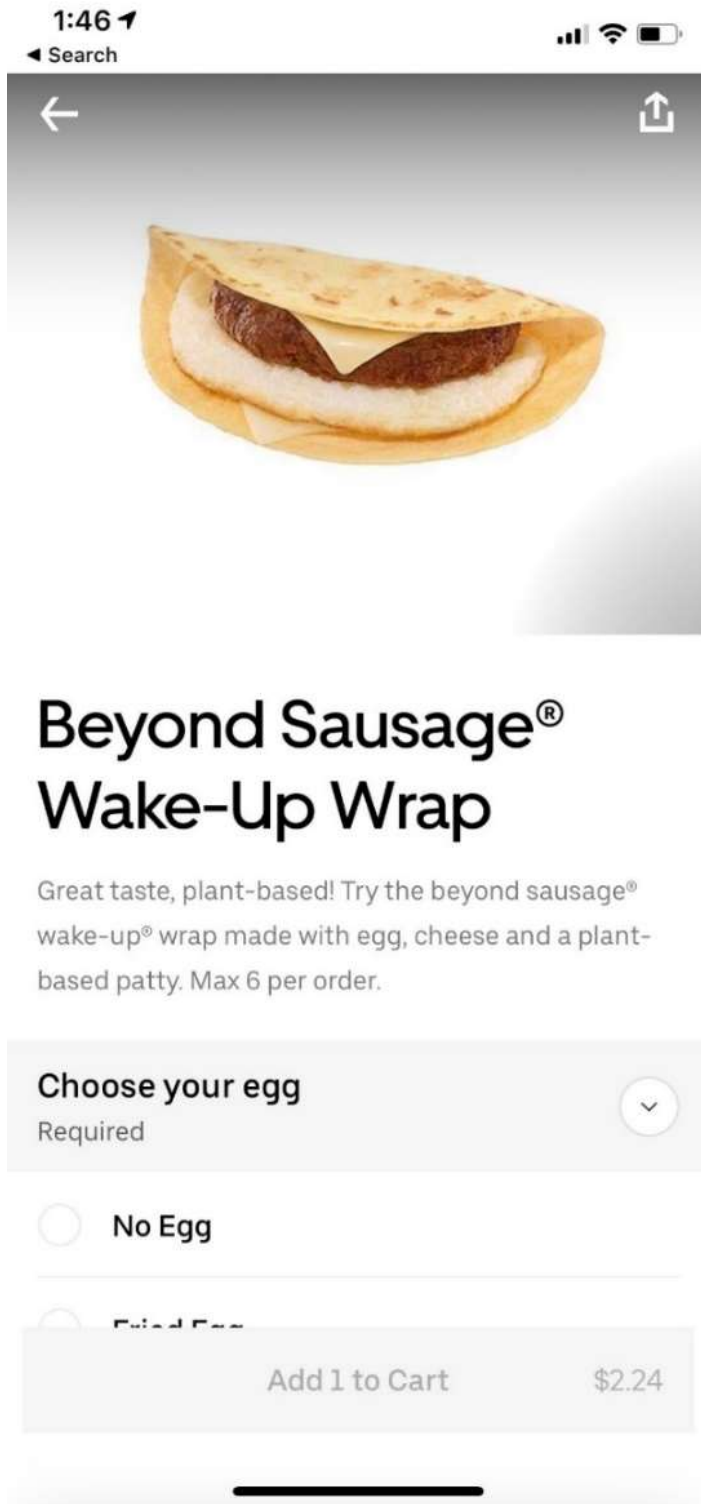
☐ No Egg

☐ Veggie Egg White

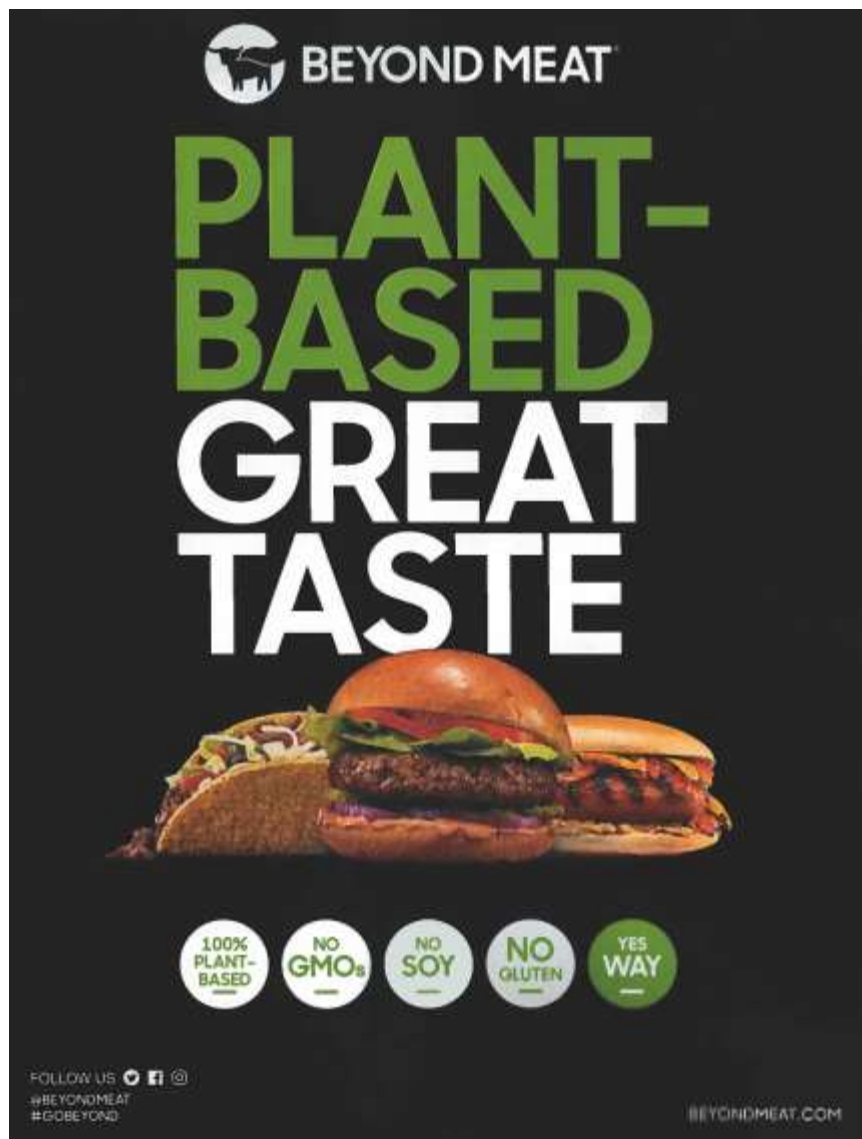
Add to Order

\$3.99

Dkt. 17, ¶69.



Dkt. 17, ¶69.



Dkt. 17, ¶71.

APPENDIX B

Figure 18. Kroger Plant-Based Department Category – page 36

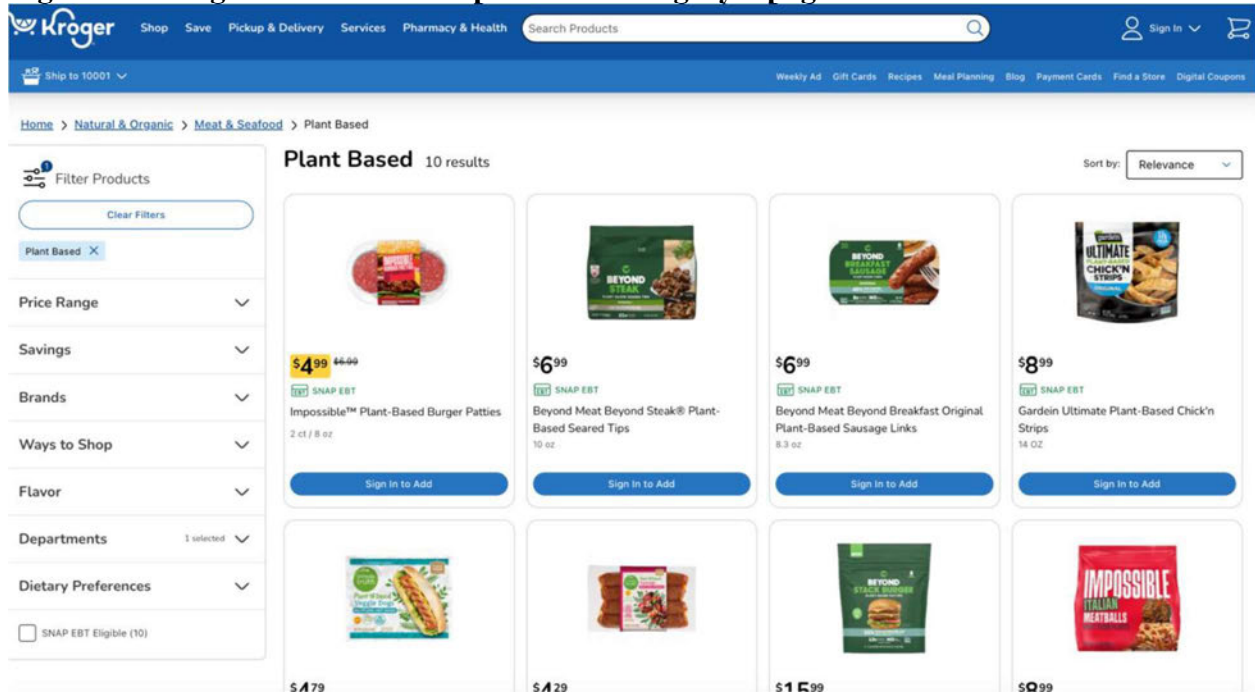


Figure 20. Plant-Based Grocery Store Section from Industry Report – page 38



Figure 21. Plant-Based Grocery Store Cold Vault Section from Industry Report – page 38



Figure 27. Babybel Plant-Based Cheese – page 43



Figure 30. Southern Barbecue Tofu Cubes – page 46



Figure 1. Examples of brands using “great taste” in marketing taglines – page 16



Figure 4. Example post about Lipton Tea using “great taste” - page 21



Figure 5. Example post about Gatorade gels using “great taste” – page 22



Figure 8. Example post about Sprite using “great taste” – page 24



Figure 40. V Burger Launched in 2015 with the Slogan “Great Taste Plant Based” – page 57



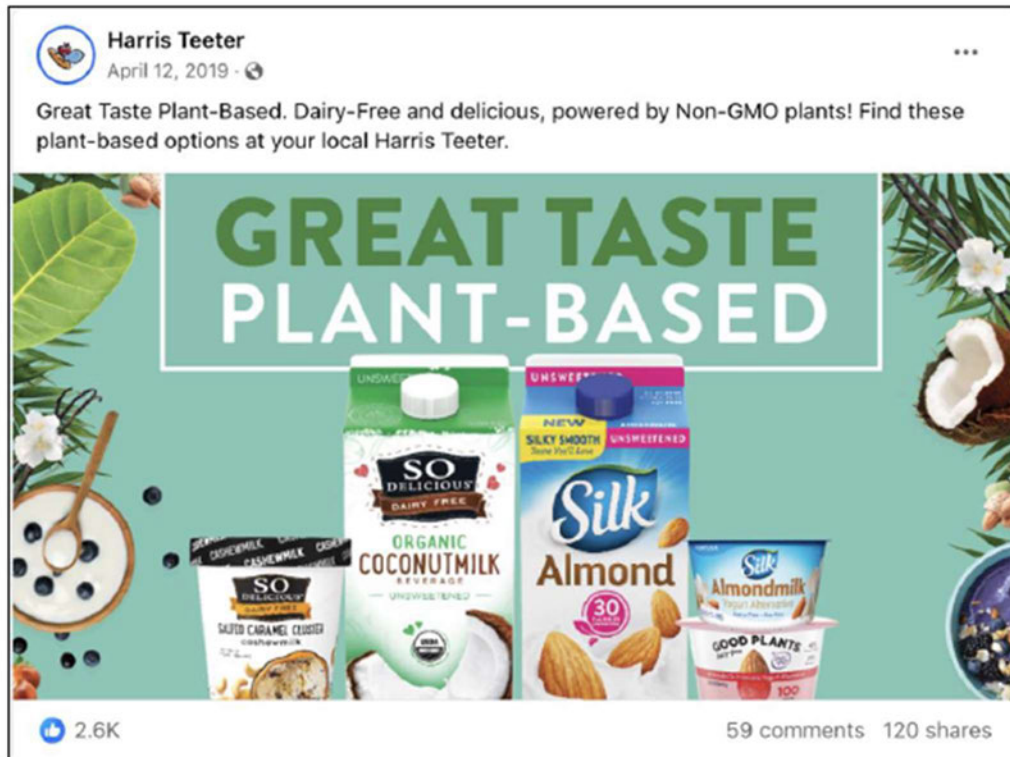
Figure 41. Hellmann's Vegan Mayo Label Reads "Same Great Taste Plant Based" – page 58










Figure 42. Impossible Foods, Inc. has also used a slogan with the phrases "great taste" and "plant-based" – page 59












Figure 43. Grocery Store Promotional Post uses “Great Taste” and “Plant-Based” together in April 2019 – page 60
















APPENDIX C



	Registration No.	Word Mark/ Design Mark	Class and Goods	Note
1	7328221		IC 029: Preserved, frozen, dried and cooked fruits and vegetables extracts for use in prepared meals or food; Jellies, jams, compotes.	"Plant-based" disclaimed
2	7197252		IC 029: Egg substitute.	"Plant-based Egg" disclaimed
3	6751496		IC 029: Plant-based Jerky; Processed beets; Vegetable-based meat substitutes.	"Plant-based" disclaimed
4	6891008		IC 029: Nut milk; non-dairy creamer containing milk of cashews, nut milk beverage containing nutritional additives.	"Plant-based" disclaimed
5	5758095		IC 029: Soups; Tofu; Tofu burger patties; Tofu-based snacks; Veggie burger patties; Fruit salads; Garden salads; Potato fries; Preserved, dried, cooked and grilled vegetables; Processed collard greens; Sweet potato fries; Vegetable salads.	"Power Food" and "Plant-based" disclaimed
6	7502881		IC 029: Formed textured vegetable protein for use as a meat substitute; Textured vegetable protein for use as a meat extender.	"Plant-based" and "Foods" disclaimed
7	7435215		IC 029: Meat, fish, poultry and game preserves, sausages; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, compotes; eggs, milk and cream being dairy products; edible oils and fats, salads in vinegar being pickles, meat substitutes burger patties, meatballs with meat substitute, sausages with meat substitute, prepared dishes consisting primarily of meat substitute, special plant based protein used as meat substitute based snacks,	"Plant-based" disclaimed






			meat substitute, vegan and vegetarian meat substitutes, plant based meat substitutes, plant based dairy products, namely, milk substitutes, plant based cheese, plant based cheddar cheese.	
8	5941681		IC 029: Coconut-based beverage used as a milk substitute; nut-based milk for use as a milk substitute; soy-based food beverage used as a milk substitute, Yogurt; yogurt drinks; plant-based yogurt; plant-based yogurt drinks; nut milk-based yogurt; nut milk-based yogurt drinks; coconut milk-based yogurt; coconut milk-based yogurt drinks; non-dairy milk-based yogurts, namely, hemp milk-based yogurt, seed milk-based yogurt, grain milk-based yogurt, legume milk-based yogurt; non-dairy milk-based yogurt drinks, namely, hemp milk-based yogurt drinks, seed milk-based yogurt drinks, grain milk-based yogurt drinks, legume milk-based yogurt drinks; non-dairy milk-based beverages, namely, hemp milk-based beverages, seed milk-based beverages, grain milk-based beverages.	"Plant-based" disclaimed
9	6121340		IC 029: Preserved, frozen, dried and cooked fruits and vegetables; processed fruit and nut based food bars; nut-based snack foods; nuts, prepared; caesar salad; vegetable extracts for culinary purposes; sliced vegetables; fruit and vegetable salads; soups and preparations for making soups; tofu; foods prepared from bean curds, namely, tofu; bean processed foodstuffs, excluding bean curds and their processed foodstuffs, namely, tofu patties, soya patties; beans, prepared; bean-based snack foods; soya-based snack foods; smoked sausage; cooking oil; preserved meats and sausages; tinned meat, fish, vegetables and fruits; croquettes; the aforesaid goods made predominantly of plant-based meats	"Plant-based meat" disclaimed
10	6811056		IC 029: Milk substitutes; Almond milk; Coconut milk; Oat milk; Soy milk.	"Plant-based milk" disclaimed




11	6495634		IC 029: Preserved, frozen, dried and cooked fruits and vegetables; ready cooked meals consisting primarily of meat or vegetables; desserts made from milk products, namely, yoghurts and cocoa flavoured milk beverages; fruit snacks; oils and fats for food; all of the foregoing being plant-based	"Plant-based" disclaimed
12	6805837		IC 029: Meat substitutes; vegan and vegetarian meat products, namely, vegetable-based meat substitutes, vegetarian sausages, and formed textured vegetable protein for use as a meat substitute; plant-based meat substitutes; jerky made with meat substitutes and vegetables.	"Plant-based" disclaimed
13	5804515		IC 029: plant-based food, namely, meat substitutes and cheese substitutes; vegan food, namely, meat substitutes and cheese substitutes.	"100% Plant-based" disclaimed
14	7478538		IC 029: Vegetable-based snack foods; Vegetable-based meat substitutes.	"Plant-based foods" disclaimed
15	6890096		IC 029: Alternative protein substitute products, namely, formed vegetable protein for use as a meat substitute.	"Plant fare plant based protein" disclaimed
16	6926383		IC 029: Olive oil for foods; edible olive oil.	"Plant-based" and "Superphenols" disclaimed

17	6274793		IC 029: Butter substitutes; meat substitutes; margarine substitutes; cheese substitutes; sour cream substitutes; egg substitutes; milk substitutes; vegetable-based meat substitutes; prepared meals consisting primarily of meat substitutes; vegetable-based cream.	"Plant-based" disclaimed
18	7056184		IC 029: Vegetable-based meat substitutes; Prepared meals consisting primarily of meat substitutes; Vegetarian meat substitute products, namely, vegetable-based meat substitutes, soya-based meat substitutes, and tofu-based meat substitutes; vegan meat substitute products, namely, vegetable-based meat substitutes, soya-based meat substitutes, and tofu-based meat substitutes.	"DIY Plant based burger" disclaimed
19	5132691		IC 029: Caviar; Vegetable paste; Processed, edible seaweed.	"Plant Based Foods Inc" disclaimed
20	6079290		IC 029: Meat substitutes.	"Plant-based burger" disclaimed
21	7454023		IC 029: Salads, namely, processed and edible seaweed, agar-agar and kelp salad; Salads, namely, edible seaweed salads; Vegetable salad; Salads, namely, processed and edible seaweed, agar-agar, and kelp salad with yuzu peel; Seaweed-based snacks.	"Plant-based" disclaimed
22	5325899		IC 029: Vegetable based chips; Vegetable-based snack foods; Seed-based snack foods.	"Plant-based" disclaimed
23	6339069		IC 029: Cheese, containing a significant part of or derived from plants.	"PLANTA", "DESDE 2017", "ETHICAL HONEST PLANT-BASED", or "HECHO

				EN PANAMA" disclaimed
24	6079291		IC 029: Meat substitutes; Vegetarian sausages.	"Plant-based breakfast sausage" disclaimed
25	6079302		IC 029: Meat substitutes.	"Plant-based savory chicken burger" disclaimed
26	6079299		IC 029: Meat substitutes.	"Plant-based roasted turkey burger" disclaimed
27	6886885		IC 029: frozen and packaged vegetable-based entrees.	"PB FALAFEL BURGER VEGETARIAN PLANT BASED BURGER" disclaimed
28	7078942	MACIEL'S PLANT-BASED BUTCHER	IC 029: Meat substitutes, made in whole or in part of plant-based ingredients	"Plant-based Butcher" disclaimed
29	7122171		IC 029: meat substitutes; milk substitutes; non-dairy yogurt; snack dips; tofu; all of the foregoing being plant based	"Plant-based" disclaimed
30	6548592	KITE HILL PLANT-BASED ARTISANS	IC 029: Non-dairy cheese substitute; non-dairy yogurt substitute; coconut milk-based yogurt; plant-based cheese; plant-based spread, namely, fruit, vegetable and nut-based spreads; dips; plant-based butter; plant-based sour cream.; IC 030: Frozen prepared pasta; plant-based cheese sauce; pasta filled with plant-based cheese.	"Plant-based artisans" disclaimed
31	7317714		IC 029: Cheese; vegan cheese; plant-based cheese; all the foregoing being plant-based.	"Plant-based Cheese" disclaimed




32	6855979		IC 029: Dried milk products, namely, dried milk powder and dried milk for food; Whey; Preserved, dried and cooked vegetables; Condiments, namely, sweet pickle condiment and pickled ginger condiment for use as a food flavoring	"Plant based food" disclaimed
33	7402839	PLANT-BASED. CARNIVORE-APPROVED.	IC 029: vegetarian meat substitutes; vegan and vegetarian meat products in the nature of plant-based meat substitutes; plant-based meat substitutes.	"Plant based" disclaimed
34	7078413	CLASSIC TASTE PLANT BASED	IC 029: Plant-based foods, namely meat substitutes.	"Classic" and "Plant based" disclaimed
35	6420906	PERFECT PLANT BASED GROUND	IC 029: Meat substitutes, namely, frozen vegan and vegetarian ground meat substitutes not being patties or cakes; plant-based meat substitutes, namely, frozen plant-based ground meat substitutes not being patties or cakes.	"Plant based ground" disclaimed
36	6989735		IC 029: Plant based seafood substitutes; frozen plant based meats.	"Plant-based fish" disclaimed
37	7056982	COOL EARTH PLANT-BASED CREAMERY	IC 029: Milk substitutes, plant-based foods as dairy substitutes, namely, plant-based milk, creamer, butter, yogurt, and other traditionally dairy-based food products made from plant-based ingredients, namely, hemp milk, soy milk, and oat milk, yogurts, creams, cheeses, butter.	"Plant-based Creamery" disclaimed
38	6063300		IC 029: Vegetable based protein food products, namely, meat substitutes.	"Plant" and "Plant Based Meat Substitutes" Disclaimed
39	6064676	RIDICULOUSLY GOOD PLANT-BASED PRODUCTS	IC 029: Plant based food products, namely, vegetable based snack foods; meat substitutes.	"Plant-based products" disclaimed

40	7526562		IC 029: Plant based cheese substitutes	"Plant based" "Meat & Cheese Co" and "Creamery" disclaimed
41	6342668		IC 029: Vegetable food products, namely, vegetable-based meat.	"The very good Butchers" "plant based Butchery" and "British Columbia" disclaimed
42	7392913		IC 029: Plant-based non-alcoholic eggnog.	"Plant based" "Rich & Creamy" and "Oat Nog" disclaimed
43	7498988		IC 029: Plant based seafood food substitutes.	"Plant based seafood alternative" disclaimed
44	7497690		IC 029: Dairy products in the nature of milk, cream, yoghurt, crème fraiche, sour cream, butter and cottage cheese and dairy substitutes in the nature of non-dairy substitutes for milk, cream yoghurt crème fraiche, sour cream, butter and cottage cheese; cheese; processed fruits; processed fungi in the nature of Dried edible fungi and processed vegetables; Processed nuts; Processed pulses.	"Plant based foods" and "Est 2006 Green Dairy" disclaimed

45	6188866		IC 029: Organic dried fruit snacks and mixes; Organic processed nuts, processed edible seeds, not being seasonings or flavorings.	"INTERNATIONAL" AND "NON-GMO" AND "ORGANIC" AND "Plant-based" AND "ESTD" AND "1991" disclaimed
46	7416356		IC 029: Plant-based cheese substitutes.	"100% Plant-based" and "HANDCRAFTED IN CYPRUS BY EXPERTS IN GRILLING SPECIALTIES SINCE 1977" disclaimed
47	6102537		IC 029: Healthy snacks, namely, nut and seed based snack bars; healthy snacks, namely, food bars comprised primarily of nuts and seeds, and also containing other ingredients; processed nut and seed based bars; nutrition bars, namely, nut and seed based snack bars; nut and seed, nutrient-dense snack bars; nut and seed based snack food bars; food bars, namely, nut and seed based snack bars; high protein nut and seed based food bars; ready-to-eat food bars, namely, nut and seed based snack bars; snacks, namely, nut and seed based snack foods; sweet snacks, namely, nut and seed based snack foods; savory snacks, namely, nut and seed based snack foods; savory bars, namely, nut and seed based bars; sweet bars, namely, nut and seed based bars; nut and seed based snack foods; concentrates used in the preparation of milks and nut and seed based beverages; nut and seed based beverage concentrates; preparations for making beverages, namely, flavored milks; powders for making beverages, namely, flavored milks	"100% Superfoods" AND "100% Clean" AND "100% Natural" AND "100% Plant-based" disclaimed

48	7109710		IC 029: Salads, namely, vegetable salads; soups; tofu and tempeh; veggie burger patties and tofu burger patties; tofu-based snacks; fruit salads; preserved, dried, cooked, roasted and grilled vegetables; vegan dishes, namely, sweet potato fries, potato fries, vegan poutine, vegan soups and chili, collard greens, cashew-based cheese substitutes, meat substitutes, namely, of chicken, beef, fish; frozen soy-based desserts; grain-based beverages consisting primarily of oat milk and rice milk.	"Plant-based" disclaimed
49	6471568		IC 029: Processed nuts; trail mix consisting primarily of processed nuts and dried fruit; snack mix consisting primarily of processed nuts, and also including seeds, and dried fruit; snack mix consisting primarily of processed fruits, processed nuts and raisins.; IC 030: Cookies; crackers; granola; Trail mix consisting primarily of granola, and also including seeds, dried fruit, and processed nuts.	"Since 1960" and "Plant Based Snacks" disclaimed
50	5888989		IC 029: Non-dairy yogurt substitute; plant-based yogurt; cultured probiotic plant-based yogurt.	"Mango Plant-based Yogurt" disclaimed
51	5888993		IC 029: Non-dairy yogurt substitute; plant-based yogurt; cultured probiotic plant-based yogurt.	"Strawberry Plant-based Yogurt" disclaimed

52	5888992		IC 029: Non-dairy yogurt substitute; plant-based yogurt; cultured probiotic plant-based yogurt.	"Raspberry Plant-based Yogurt" disclaimed
53	5888994		IC 029: Non-dairy yogurt substitute; plant-based yogurt; cultured probiotic plant-based yogurt.	"Vanilla Plant-based Yogurt" disclaimed
54	5888988		IC 029: Non-dairy yogurt substitute; plant-based yogurt; cultured probiotic plant-based yogurt.	"Blueberry Plant-based Yogurt" disclaimed
55	5888990		IC 029: Non-dairy yogurt substitute; plant-based yogurt; cultured probiotic plant-based yogurt.	"Plant-based Yogurt" disclaimed
56	5888991		IC 029: Non-dairy yogurt substitute; plant-based yogurt; cultured probiotic plant-based yogurt.	"Pineapple Plant-based Yogurt" disclaimed
57	6173937	KITE HILL BLISSFUL PLANT-BASED ARTISANS	IC 029: Coconut milk-based yogurt; dairy-free yogurt.	"Plant-based Artisans" disclaimed

58	7109695		IC 029: Salads, namely, grain salads, vegetable salads and quinoa salads; soups; tofu and tempeh; veggie burger patties and tofu burger patties; tofu-based snacks; fruit salads; preserved, dried, cooked, roasted and grilled vegetables; vegan dishes, namely, sweet potato fries, potato fries, vegan poutine, vegan soups and chili, collard greens, simulated cashew-based cheese, simulated meat, namely, simulated chicken, beef, fish; grain-based beverages consisting primarily of oat milk and rice milk.	"Plant-based" disclaimed
59	6471559		IC 029: Processed nuts; trail mix consisting primarily of processed nuts and dried fruit; snack mix consisting primarily of processed nuts, and also including seeds, and dried fruit; snack mix consisting primarily of processed fruits, processed nuts and raisins.	"Since 1960" and "Plant Based Snacks" disclaimed
60	6937639		IC 029: Meat substitutes; Formed textured vegetable protein for use as a meat substitute; Vegetable-based meat substitutes.	"Foods" and "Plant Based Meat" disclaimed